

Adopted	Rejected
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## COMMITTEE REPORT

YES:	13
NO:	0

### MR. SPEAKER:

*Your Committee on Insurance, Corporations and Small Business, to which was referred Senate Bill 383, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 6, after line 6, begin a new paragraph and insert:
- 2 "SECTION 3. IC 27-1-12.7 IS ADDED TO THE INDIANA CODE
- 3 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 4 UPON PASSAGE]:
- 5 **Chapter 12.7. Funding Agreements**
- 6 **Sec. 1. As used in this chapter, "funding agreement" means an**
- 7 **agreement that:**
- 8 **(1) is issued by a life insurance company to a holder;**
- 9 **(2) authorizes the life insurance company to accept funds**
- 10 **from the holder; and**
- 11 **(3) provides for an accumulation of the funds for the purpose**
- 12 **of making one (1) or more payments to the holder at a future**
- 13 **date in an amount not based on mortality or morbidity**
- 14 **contingencies of the holder.**

1       **Sec. 2.** As used in this chapter, "holder" means a person  
 2 described in section 5 of this chapter that is issued a funding  
 3 agreement by a life insurance company.

4       **Sec. 3.** As used in this chapter, "life insurance company" refers  
 5 to a life insurance company that is authorized to issue a product  
 6 described in Class 1(c) of IC 27-1-5-1.

7       **Sec. 4.** As used in this chapter, "optional modes of settlement"  
 8 refers to the manner in which a funding agreement is structured to  
 9 repay interest and principal to the holder.

10       **Sec. 5.** A life insurance company may issue or issue for delivery  
 11 in Indiana a funding agreement to the following:

12       **(1) A:**

13           **(A)** person authorized by a state or foreign country to  
 14 engage in an insurance business; or

15           **(B)** subsidiary of a person described in clause (A).

16       **(2) A** person not described in subdivision (1), to fund the  
 17 following:

18           **(A)** Benefits under an employee benefit plan (as defined in  
 19 29 U.S.C. 1002) maintained in the United States or in a  
 20 foreign country.

21           **(B)** Activities of an organization that is exempt from  
 22 taxation under section 501(c) of the Internal Revenue  
 23 Code, or a similar organization in a foreign country.

24           **(C)** A program of:

25               **(i)** the United States government;

26               **(ii)** another state government;

27               **(iii)** a political subdivision of another state;

28               **(iv)** a foreign country; or

29               **(v)** an agency or instrumentality of a government,  
 30 political subdivision, or foreign country described in  
 31 items (i) through (iv).

32           **(D)** An agreement providing for periodic payments in  
 33 satisfaction of a claim.

34           **(E)** A program of an institution that has assets that exceed  
 35 twenty-five million dollars (\$25,000,000).

36           **(F)** A program in which a business entity:

37               **(i)** purchases and holds funding agreements; and

38               **(ii)** issues securities by using the funding agreement to

1                   finance or collateralize the securities.

2                   (G) A similar activity or program specifically authorized  
3                   by the commissioner.

4           **Sec. 6. The issuance of a funding agreement under this chapter:**

5                   (1) constitutes an activity necessary, convenient, or expedient  
6                   to the business of a life insurance company in accordance with  
7                   IC 27-1-7-2;

8                   (2) is not a kind of insurance described in IC 27-1-5-1;

9                   (3) is not a security (as defined in IC 23-2-1-1(k)); and

10                  (4) does not constitute the receipt of gross premium for the  
11                  purposes of IC 27-1-18-2.

12           **Sec. 7. Amounts may not be guaranteed or credited under a**  
13           **funding agreement except:**

14                  (1) upon reasonable assumptions concerning investment  
15                  income and expenses; and

16                  (2) on a basis equitable to all holders of funding agreements  
17                  of a given class.

18           **Sec. 8. Amounts paid to a life insurance company, and proceeds**  
19           **applied to amounts paid under optional modes of settlement, under**  
20           **a funding agreement may be allocated by the life insurance**  
21           **company to one (1) or more segregated investment accounts in the**  
22           **manner described in Class 1(c) of IC 27-1-5-1.**

23           **Sec. 9. The commissioner may establish reasonable conditions**  
24           **or adopt rules under IC 4-22-2 regarding:**

25                  (1) reserves that must be maintained by a life insurance  
26                  company for funding agreements;

27                  (2) accounting and reporting of funds credited under funding  
28                  agreements; and

29                  (3) other matters related to funding agreements that the  
30                  commissioner considers necessary, proper, and advisable.

31           **Sec. 10. Notwithstanding any other law:**

32                  (1) the commissioner has the sole authority to regulate  
33                  funding agreements;

34                  (2) a funding agreement is not a covered policy under  
35                  IC 27-8-8-1(a); and

1           **(3) a claim for payments under a funding agreement must be**  
2           **treated as a loss claim under Class 2 of IC 27-9-3-40.**

3           **SECTION 4. An emergency is declared for this act."**

(Reference is to SB 383 as reprinted March 4, 2003.)

**and when so amended that said bill do pass.**

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Representative Fry